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10 Attorneys for Plaintiff  
UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 CHRISTOPHER Y. MORENO NUNEZ,  
aka, "Christopher Moreno,"

17 Defendant.  
18  
19  
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No. CR 21-00244-AB

PROTECTIVE ORDER REGARDING  
DISCOVERY CONTAINING PERSONAL  
IDENTIFYING INFORMATION, MEDICAL  
INFORMATION, PRIVACY ACT  
INFORMATION, AND CONFIDENTIAL  
INFORMANT/COOPERATING WITNESS  
INFORMATION

21 The Court has read and considered the parties' Stipulation for  
22 a Protective Order Regarding Discovery Containing Personal  
23 Identifying Information, Medical Information, Privacy Act  
24 Information, and Confidential Informant/Cooperating Witness  
25 Information, filed by the government and defendant CHRISTOPHER Y.  
26 MORENO NUNEZ, also known as "Christopher Moreno" ("defendant"), in  
27 this matter on April 11, 2024, which this Court incorporates by  
28 reference into this order, and FOR GOOD CAUSE SHOWN the Court hereby

1 FINDS AND ORDERS as follows:

2 1. The government's discovery in this case relates to  
3 defendant's alleged crimes, that is, violations of 21 U.S.C. § 846  
4 (conspiracy to distribute and possess with intent to distribute  
5 controlled substances) and 21 U.S.C. §§ 841(a)(1), (b)(1)(C)  
6 (distribution of fentanyl resulting in serious bodily injury).

7 2. A protective order for the discovery is necessary so that  
8 the government can produce to the defense materials regarding  
9 confidential informants or cooperating witnesses who participated in  
10 the government's investigation and who may testify at trial.  
11 Because these materials could be used to identify the confidential  
12 informants or cooperating witnesses, the Court finds that the  
13 unauthorized dissemination or distribution of the materials may  
14 compromise the ability of such persons to participate effectively in  
15 future investigations in an undercover capacity and/or may expose  
16 him/her to potential safety risks.

17 3. A protective order for the discovery is also necessary so  
18 that the government can produce to the defense materials containing  
19 third parties' PII and medical information. The Court finds that  
20 disclosure of this information without limitation risks the privacy  
21 and security of the information's legitimate owners. The medical  
22 information at issue may also be subject to various federal laws  
23 protecting the privacy of medical records, including provisions of  
24 the Privacy Act, 5 U.S.C. § 552a; provisions of 45 C.F.R.  
25 §§ 164.102-164.534; and/or provisions of 42 U.S.C. § 1306. Because  
26 the government has an ongoing obligation to protect third parties'  
27 PII and medical information, the government cannot produce to  
28 defendant an unredacted set of discovery containing this information

1 without this Court entering the Protective Order. Moreover, PII and  
2 medical information makes up a significant part of the discovery in  
3 this case and such information itself, in many instances, has  
4 evidentiary value. If the government were to attempt to redact all  
5 this information in strict compliance with Federal Rule of Criminal  
6 Procedure 49.1, the Central District of California's Local Rules  
7 regarding redaction, and the Privacy Policy of the United States  
8 Judicial Conference, the defense would receive a set of discovery  
9 that would be highly confusing and difficult to understand, and it  
10 would be challenging for defense counsel to adequately evaluate the  
11 case, provide advice to defendant, or prepare for trial.

12 4. An order is also necessary because the government intends  
13 to produce to the defense materials that may contain information  
14 within the scope of the Privacy Act, 5 U.S.C. § 552a ("Privacy Act  
15 Information"). The Court finds that, to the extent that these  
16 materials contain Privacy Act information, disclosure is authorized  
17 pursuant to 5 U.S.C. § 552a(b)(11).

18 5. The purpose of this Protective Order is therefore to  
19 (a) allow the government to comply with its discovery obligations  
20 while protecting this sensitive information from unauthorized  
21 dissemination, and (b) provide the defense with sufficient  
22 information to adequately represent defendant.

23 6. Accordingly, the discovery that the government will  
24 provide to defense counsel in the above-captioned case will be  
25 subject to this Protective Order, as follows:

26 a. As used herein, "CI Materials" includes any  
27 information relating to a confidential informant's or cooperating  
28 witness's prior history of cooperation with law enforcement, prior

1 criminal history, statements, or any other information that could be  
2 used to identify a confidential informant or cooperating witness,  
3 such as a name, image, address, date of birth, or unique personal  
4 identification number, such as a Social Security number, driver's  
5 license number, account number, or telephone number.

6           b. As used herein, "PII Materials" includes any  
7 information that can be used to identify a person, including a name,  
8 address, date of birth, Social Security number, driver's license  
9 number, telephone number, account number, email address, or personal  
10 identification number.

11           c. "Medical Materials" includes any individually  
12 identifiable health information that is connected to a patient's  
13 name, address, or other identifying number, such as a Social  
14 Security number or Medicare/Medi-Cal number.

15           d. "Confidential Information" refers to any document or  
16 information containing CI Materials, PII Materials, Medical  
17 Materials, or Privacy Act Information that the government produces  
18 to the defense pursuant to this Protective Order and any copies  
19 thereof.

20           e. "Defense Team" includes (1) defendant's counsel of  
21 record ("defense counsel"); (2) other attorneys at defense counsel's  
22 law firm who may be consulted regarding case strategy in this case;  
23 (3) defense investigators who are assisting defense counsel with  
24 this case; (4) retained experts or potential experts; and  
25 (5) paralegals, legal assistants, and other support staff to defense  
26 counsel who are providing assistance on this case. The Defense Team  
27 does not include defendant, defendant's family members, or any other  
28 associates of defendant.

1           f. The government is authorized to provide defense  
2 counsel with Confidential Information marked with the following  
3 legend: "CONFIDENTIAL INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE  
4 ORDER." The government may put that legend on the digital medium  
5 (such as DVD or hard drive) or simply label a digital folder on the  
6 digital medium to cover the content of that digital folder. The  
7 government may also redact any PII contained in the production of  
8 Confidential Information.

9           g. If defendant objects to a designation that material  
10 contains Confidential Information, the parties shall meet and  
11 confer. If the parties cannot reach an agreement regarding  
12 defendant's objection, defendant may apply to this Court to have the  
13 designation removed.

14           h. Defendant and the Defense Team shall use the  
15 Confidential Information solely to prepare for any pretrial motions,  
16 plea negotiations, trial, and sentencing hearing in this case, as  
17 well as any appellate and post-conviction proceedings.

18           i. The Defense Team shall not permit anyone other than  
19 the Defense Team to have possession of Confidential Information,  
20 including defendant, while outside the presence of the Defense Team.

21           j. Notwithstanding the above, defendant may see and  
22 review CI Materials only in the presence of defense counsel, and  
23 defense counsel shall ensure that defendant is never left alone with  
24 any CI Materials. At the conclusion of any meeting with defendant  
25 at which defendant is permitted to view CI Materials, defendant must  
26 return any CI Materials to defense counsel, who shall take all such  
27 materials with counsel. Defendant may not take any CI Materials out  
28 of the room in which defendant is meeting with defense counsel. At

1 no time, under no circumstance, will any Confidential Information be  
2 left in the possession, custody, or control of defendant, regardless  
3 of defendant's custody status.

4 k. Defendant may review PII Materials and Medical  
5 Materials only in the presence of a member of the Defense Team, who  
6 shall ensure that defendant is never left alone with any PII  
7 Materials or Medical Materials. At the conclusion of any meeting  
8 with defendant at which defendant is permitted to view PII Materials  
9 or Medical Materials, defendant must return any PII Materials or  
10 Medical Materials to the Defense Team, and the member of the Defense  
11 Team present shall take all such materials with him or her.  
12 Defendant may not take any PII Materials or Medical Materials out of  
13 the room in which defendant is meeting with the Defense Team.

14 l. Defendant may see and review Confidential Information  
15 as permitted by this Protective Order, but defendant may not copy,  
16 keep, maintain, or otherwise possess any Confidential Information in  
17 this case at any time. Defendant also may not write down or  
18 memorialize any data or information contained in the Confidential  
19 Information.

20 m. The Defense Team may review Confidential Information  
21 with a witness or potential witness in this case, including  
22 defendant. Defense counsel must be present whenever any CI  
23 Materials are being shown to a witness or potential witness. A  
24 member of the Defense Team must be present if PII Materials or  
25 Medical Materials are being shown to a witness or potential witness.  
26 Before being shown any portion of Confidential Information, however,  
27 any witness or potential witness must be informed of, and agree in  
28 writing to be bound by, the requirements of the Protective Order.

1 No member of the Defense Team shall permit a witness or potential  
2 witness to retain Confidential Information or any notes generated  
3 from Confidential Information.

4 n. The Defense Team shall maintain Confidential  
5 Information safely and securely, and shall exercise reasonable care  
6 in ensuring the confidentiality of those materials by (1) not  
7 permitting anyone other than members of the Defense Team, defendant,  
8 witnesses, and potential witnesses, as restricted above, to see  
9 Confidential Information; (2) not divulging to anyone other than  
10 members of the Defense Team, defendant, witnesses, and potential  
11 witnesses, the contents of Confidential Information; and (3) not  
12 permitting Confidential Information to be outside the Defense Team's  
13 offices, homes, vehicles, or personal presence. CI Materials shall  
14 not be left unattended in any vehicle.

15 o. To the extent that defendant, the Defense Team,  
16 witnesses, or potential witnesses create notes that contain, in  
17 whole or in part, Confidential Information, or to the extent that  
18 copies are made for authorized use by members of the Defense Team,  
19 such notes, copies, or reproductions become Confidential Information  
20 subject to the Protective Order and must be handled in accordance  
21 with the terms of the Protective Order.

22 p. The Defense Team shall use Confidential Information  
23 only for the litigation of this matter and for no other purpose.  
24 Litigation of this matter includes any appeal filed by defendant and  
25 any motion filed by defendant pursuant to 28 U.S.C. § 2255. In the  
26 event that a party needs to file Confidential Information with the  
27 Court or divulge the contents of Confidential Information in court  
28 filings, the filing should be made under seal. If the Court rejects

1 the request to file such information under seal, the party seeking  
2 to file such information publicly shall provide advance written  
3 notice to the other party to afford such party an opportunity to  
4 object or otherwise respond to such intention. If the other party  
5 does not object to the proposed filing, the party seeking to file  
6 such information shall redact any CI Materials, PII Materials, or  
7 Medical Materials and make all reasonable attempts to limit the  
8 divulging of CI Materials, PII Materials, or Medical Materials.

9           q. Any Confidential Information inadvertently produced  
10 in the course of discovery prior to entry of the Protective Order  
11 shall be subject to the terms of this Protective Order. If  
12 Confidential Information was inadvertently produced prior to entry  
13 of the Protective Order without being marked "CONFIDENTIAL  
14 INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE ORDER," the government  
15 shall reproduce the material with the correct designation and notify  
16 defense counsel of the error. The Defense Team shall take immediate  
17 steps to destroy the unmarked material, including any copies.

18           r. If any Confidential Information contains both CI  
19 Materials and another category of Confidential Information, the  
20 information shall be handled in accordance with the CI Materials  
21 provisions of this Protective Order.

22           s. Confidential Information shall not be used by any  
23 member of the defense team, in any way, in any other matter, absent  
24 an order by this Court. All materials designated subject to the  
25 Protective Order maintained in the Defense Team's files shall remain  
26 subject to the Protective Order unless and until such order is  
27 modified by this Court. Within 30 days of the conclusion of  
28 appellate and post-conviction proceedings, defense counsel shall



1 return CI Materials to the government or certify that such materials  
2 have been destroyed. Within 30 days of the conclusion of appellate  
3 and post-conviction proceedings, defense counsel shall return all  
4 PII Materials or Medical Materials, certify that such materials have  
5 been destroyed, or certify that such materials are being kept  
6 pursuant to the California Business and Professions Code and the  
7 California Rules of Professional Conduct.

8 t. In the event that there is a substitution of counsel  
9 prior to when such documents must be returned, new defense counsel  
10 must be informed of, and agree in writing to be bound by, the  
11 requirements of the Protective Order before defense counsel  
12 transfers any Confidential Information to the new defense counsel.  
13 New defense counsel's written agreement to be bound by the terms of  
14 the Protective Order must be returned to the Assistant U.S. Attorney  
15 assigned to the case. New defense counsel then will become the  
16 Defense Team's custodian of materials designated subject to the  
17 Protective Order and shall then become responsible, upon the  
18 conclusion of appellate and post-conviction proceedings, for  
19 (1) returning to the government, certifying the destruction of, or  
20 retaining pursuant to the California Business and Professions Code  
21 and the California Rules of Professional Conduct all PII Materials  
22 or Medical Materials; and (2) returning to the government or  
23 certifying the destruction of all CI Materials.

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1 u. Defense counsel shall advise defendant and all  
2 members of the Defense Team of their obligations under the  
3 Protective Order and ensure their agreement to follow the Protective  
4 Order, prior to providing defendant and members of the Defense Team  
5 with access to any materials subject to the Protective Order.

6 IT IS SO ORDERED.

7 April 15, 2024

8 DATE



HONORABLE ANDRÉ BIROTTE JR.  
UNITED STATES DISTRICT JUDGE

9  
10 Presented by:

11 /s/

12 PATRICK CASTAÑEDA  
13 Assistant United States Attorney  
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